IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2283 OF 2007

1. Sayed Mohammed Masood,
2. Mrs.Gita Umar Razzaki, &
3. Miss.Seema Umar Razzaki. ..Petitioners.

Versus

State of Maharashtra. ..Respondent.

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Mr.A.M.Saraogi, Adv. for the Petitioners.
Mr.A.R.Patil, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : DECEMBER 07, 2007.

P.C.:

. Leave to amend is granted. Amendment to be carried out forthwith.

2. Heard the learned Advocate for the petitioners and the learned APP for the State.

3. The petitioners have been shown as accused in FIR No.74 of 2007 registered under Sections 406, 420 read with 120(b) of IPC. The said FIR was registered on 14th September, 2007. The said FIR pertains to delayed payment of Rs.55,000/-,

though admittedly the petitioners had already paid more than Rs.3 lacs to the complainant. It is an admitted fact that the petitioners have not been arrested since then. For business purposes, the petitioners are required to travel abroad. Petitioner No.1 went to USA on or about 4.11.2007. When the petitioner returned back to the city of Mumbai on 22.11.2007 he was detained by the Immigration Authority at the Air Port. On enquiries being made by petitioner No.1 he was informed by the Immigration Authorities that the investigating agency had passed an order directing them not to permit petitioner No.1 to travel abroad. The investigating agency is said to have further intimated the Immigration Authorities that petitioner No.1 is wanted person and there is possibility of petitioner No.1 leaving the country hence if the petitioner approaches the Air Port he shall be detained at the Air Port. Petitioner No.1 informed the Immigration Authorities that he was not leaving India, but, infact he was entering into India. After detaining petitioner No.1 for about five hours at the Air Port, petitioner No.1 was allowed to go. In the present Petition, the

Petitioners are seeking quashing of orders issued by the investigating agency whereby the petitioners have been prevented from travelling abroad. Essentially the petitioners are seeking permission to go abroad for short periods of time for business purposes.

4. As of now, it is not the prosecution case that the petitioners are absconding. Infact the learned APP stated that the investigating agency is yet to make up its mind whether they want to arrest the petitioners. At this stage, Mr.Saraogi stated that if the investigating agency makes up its mind that they want the custody of the petitioners, the investigating agency should give them 72 hours notice prior to their arrest.

5. Mr.Patil the learned APP, on instructions, states that if the custody of the petitioners is found necessary then the investigating agency will give 72 hours written notice to the petitioners prior to their arrest.

6. As far as prayer for permission to travel

abroad is concerned, it is seen that the present complaint relates to a dispute of Rs.55,000/- only. Moreover, though the investigation is going on since 14th September, 2007, the petitioners have not yet been arrested. Besides this, it is an admitted fact that petitioner No.1 who is supposed to be the main accused has already travelled abroad but has returned back to India on his own. In view of all these facts, I am of the opinion that the petitioners can be allowed to travel abroad on certain conditions.

7. The petitioners are permitted to travel abroad on each of them depositing Rs.55,000/- in the Court of learned Metropolitan Magistrate, 19th Court, Esplanade, Mumbai. Prior to the petitioners travelling abroad, the petitioners shall furnish to the concerned Investigating Officer the detailed itinerary of their travel abroad i.e. they will inform the country to be visited, the date when petitioner/s is/are leaving to go abroad, the date when petitioner/s shall come back to India. The petitioners shall also inform the address/es where they will reside when

they are abroad and shall also furnish telephone numbers, on which, they can be contacted during the period that they are abroad. However, it is made clear that all three petitioners are not permitted to travel abroad together, but, at the most any two petitioners are permitted to travel abroad together at a time. The amount of Rs.55,000/- which will be deposited by each of the petitioners will be returned to them within one month after their return back to India. This procedure to be followed every time, the petitioners wish to travel abroad.

8. Writ Petition is disposed of in above terms.

(SMT.V.K.TAHILRAMANI,J.)